

MDE NPDES e-Permits Subscriber Agreement

October 30, 2014

MDE NPDES e-Permits Subscriber Agreement Instructions Page

This form can be used for permits issued by: Maryland Department of the Environment (MDE)

Purpose

The e-Permits Subscriber Agreement should be used by those entities needing to apply for a Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit for stormwater associated with construction activity. MDE must receive this form from all entities that submit NOIs using the NPDES e-Permits system. If the individual who is the authorized signatory an entity intends to submit NOIs directly, he or she fills out all parts of this form. If an entity would like to have a different individual that is not the required signatory submit Notices of Intent (NOIs) and other documents electronically, then the authorized signatory completes Parts A and E of the form, and the individual who will submit NOIs completes Parts B and F. This form may be used in instances where the submitter is from a different organization/entity than that seeking permit coverage. For example, the president of a company needing a permit may want to have an engineering contractor submit NOIs. The president of the company and the engineering contractor then complete this subscriber agreement and submit it to MDE. Submission of NOIs and other documents electronically is an alternative to using paper forms to fulfill the permit application requirements of the CWA NPDES program pursuant to 40 CFR 122.

Basic Information on Who Should Fill Out the Subscriber Agreement

- To request use of electronic submission of NOIs and other documents, the person that is authorized to sign permit applications as described in 40 CFR 122.22 (a) must sign this document as the Signatory Authority in Section E of this document.
- The other individual that the Signatory Authority intends to have sign and submit the NOIs and other documents must sign as the Subscriber (see Section F). If the Signatory Authority individual intends to submit his/her own documents, then he or she signs as the Subscriber.
- The Subscriber Agreement allows the Subscriber to sign and submit NOIs and other documents for any construction project the Signatory Authority's organization undertakes.
- If the authority to electronically sign for a permit is to be delegated to multiple Subscribers, then each Subscriber needs to submit and sign a separate Subscriber Agreement.
- This Subscriber Agreement applies only to documents submitted through the NPDES e-Permit Portal.

Where and When to Submit

The e-Permits subscriber agreement may be submitted to MDE after an NOI is submitted, but the lack of a valid subscriber agreement may delay permit coverage. Print and mail the completed subscriber agreement below to the Maryland Department of the Environment at the address at the bottom of the form. You should retain a hard copy.

Questions?

For help or questions please contact the Compliance Program at 410-537-3019 or mde.constructionwnoi@maryland.gov. Thank you for helping MDE reduce paper use by choosing to electronically submit your NOIs and other documents.

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A. Applicant/Permittee Information

The Applicant/Permittee requests to designate to the Subscriber (in Section B below) signing privileges for documents associated with the General Permit for Stormwater Associated with Construction Activity, including but not limited to Notices of Intent, Transfer Authorizations, and Notices of Termination. The authorized signatory for the organization must sign this agreement in Section E.

Authorized Signatory Name:	
Authorized Signatory Title:	
Organization:	
Email Address:	
Phone Number:	

B. Subscriber Information

The Subscriber is the individual that intends to submit electronic documents and signs this subscriber agreement in Section F.

ePermits User Name:	
Subscriber Name:	
Organization:	
Email Address:	
Phone Number:	

This request is (check one):

- ☐ NEW: the first request by this organization to use ePermits.
- ☐ CONTINUATION WITH NEW AUTHORIZATION: an updated subscriber agreement submitted because the signatory authority and/or subscriber at the facility has changed
- ☐ INACTIVATION: Explain reason for inactivation in the box below and identify whether the inactivation is temporary or permanent

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Notes to Permitting Authority (Optional unless Inactivating):

C. Terms and Conditions

1. **PURPOSE:** The intent of this agreement is to create legally binding obligations upon the parties using the specified data transmission protocols and the e-Permits System, to ensure that the Certifier (in this document, "Certifier" refers to signers of this document - both the Signatory Authority, and the Subscriber) agrees to: (i) Maintain the confidentiality and protect the electronic signature from unauthorized use or compromise, and follow any procedures specified by the MDE for this purpose; (ii) Be held as legally bound, obligated, or responsible by use of the assigned electronic signature as by hand-written signature.
2. **VALIDITY AND ENFORCEABILITY:** This Agreement has been executed by the parties to evidence their mutual intent to follow MDE procedures to create binding regulatory reporting documents using electronic transmission and receipt of such records, consistent with the provisions of 40 C.F.R. Part 3. Acceptance and execution of this agreement by the MDE shall be evidenced by the issuance of an email to the Certifier. Consistent with 40 C.F.R. Part 3, electronic signatures under this agreement shall have the same force and effect as a written signature. Pen and ink signatures on this agreement will remain on file with the MDE.
3. **RECEIPT:** A Document shall be deemed to have been received by the MDE when it is accessible by the MDE, can be fully processed and is syntactically correct to the specified electronic transfer protocol that may be modified from time to time by the MDE. No Document shall satisfy any reporting requirement or be of any legal effect until it is received.
4. **VERIFICATION:** Upon receipt of a Document, e-Permits System shall process the Document to make it accessible to the MDE and the Certifier. The Certifier is responsible for the content of each transmission, in accordance with the associated certification statement, and for reviewing the accuracy of the processed document in accordance with the associated certification statement, and for reviewing the accuracy of the processed document information and as made available by the e-Permits system.
5. **SIGNATURE:** The Certifier shall adopt as its electronic signature the e-Permits signature following acceptance of this Agreement. The Certifier agrees that any such Signature affixed to or associated with any transmitted Document shall be sufficient to verify such party originated and possessed the requisite authority both to originate the transaction and to verify the accuracy of the content, in the format of the specified e-Permits transmission protocol or otherwise, at the time of transmittal. The Certifier also expressly agrees that each report it submits by using its electronic signature constitutes their agreement with the associated certification statement.
6. **SECURITY:** The parties shall take reasonable actions to implement and maintain security procedures necessary to ensure the protection of transmissions against the risk of unauthorized access, alteration, loss or destruction including, but not limited to: protecting the secrecy of passwords and electronic signatures and transmitting only files in an acceptable protocol.
7. **USE OF e-PERMITTS ACCOUNT:** Each Certifier shall be either the permittee or a person identified by the permittee as a representative authorized for signatory purposes by the permittee for each facility, person, or other entity for which information is being reported. If an e-Permits account has been compromised or where there is evidence of potential compromise, it will be automatically or manually suspended. In addition, MDE will reject a document submitted by a Certifier who is not an authorized representative. Each

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Certifier expressly agrees that the MDE may act immediately and unilaterally in any decision to suspend, inactivate, revoke, or otherwise disallow use of an account by any Certifier, where the MDE believes that such action is necessary to ensure the authenticity, integrity or general security of transmissions or records, or where there are any actual or apparent violations of this agreement.

8. **INABILITY TO TRANSMIT OR FILE REPORTS ELECTRONICALLY:** To resolve technical problems, the certifier must first contact e-Permits support. In the event that electronic submission of NOIs and associated documents is not possible, it is the responsibility of the certifier to contact MDE for instructions. Depending on the circumstances, MDE may advise the certifier to wait until the electronic system issues are resolved or to submit a paper document. Failure by the applicant/permittee to obtain permit coverage prior to earth disturbance or comply with other provisions of the General Permit are violations regardless of the status of the e-Permits system.
9. **SEVERABILITY:** Any provision of the Agreement which is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.
10. **TERMINATION AND RENEWAL:** The agreement may be terminated by either party. Upon termination of this agreement, the associated ability to submit electronic information through the e-Permits system will also terminate. This subscriber agreement becomes effective upon notification of approval by MDE to the Certifier via email. The subscriber agreement will continue until modified by mutual consent or unless terminated. This subscriber agreement should be periodically reviewed and amended or revised when required. MDE reserves the right to approve or disapprove this subscriber agreement.
11. **GOVERNING LAW:** This Agreement shall be governed by and interpreted in accordance with 40 CFR 122, 40 CFR 3, and other applicable state provisions.
12. **AGREEMENT:**
 - I agree:
 - i. To protect my account and password from compromise, not allow anyone else to use my account, and not share my password with any other person;
 - ii. To change my password if I believe it becomes known to any other person;
 - iii. To promptly report to MDE any evidence of the loss, theft, or other compromise of my account or password not later than one business day;
 - iv. To notify MDE, in writing, if I terminate my employment, am reassigned or any other change in my status that causes me to cease to be a certifier representing the Applicant/Permittee organization for the organization's electronic submissions to the e-Permits system. Notification should occur as soon as this change occurs.
 - v. To review, in a timely manner, the email and onscreen acknowledgements and copies of documents submitted through my account to the e-Permits system;
 - vi. To report any evidence of discrepancy between the document submitted and what the e-Permits system received;
 - vii. That in no event will MDE be liable to me or my employer for any special, consequential, indirect or similar damages, including any lost profits or lost data arising out of the use or inability to use the software or of any data supplied therewith even if MDE or anyone else has been advised of the possibility of such damages, or for any claim by any other party. MDE disclaims all warranties, express or implied, including but not limited to implied warranties of merchantability and fitness for a

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particular purpose, with respect to the software and the accompanying written materials

I understand that I will be held as legally bound, obligated, and responsible by the electronic signature created as by a handwritten signature.

D. Inactivation/Removal

Permittee must indicate reason for inactivation in Section B of the form. This is done to inform the MDE when a relationship between an Applicant/Permittee and a Subscriber ends (such as the end of a contract), or when one of the entities is no longer in business or has a temporary reason for inactivation.

E. Applicant/Permittee Signatory Authorization

The applicant/permittee signatory authority is the appropriate individual identified under 40 CFR 122.22 with the authority to sign permit applications, reports, and other permit-required submittals (e.g., NOIs). The person signing must be the same person identified in Section A.

I have the authority to enter into this Agreement for the Organization in Section A under the applicable state and federal regulations. I request Maryland Department of the Environment grant the Subscriber in Section B the ability to submit NOIs and other documents for my organization.

Signatory Authority Signature

Date

F. Subscriber Signature

The subscriber is the e-Permits user that submits this agreement to request to electronically submit NOIs and other documents on behalf of the applicant/permittee above.

I am authorized by the signatory authority named in Part A of this document, who does have the authority under the applicable state and federal regulations, to enter into this agreement for the Applicant/Permittee listed in Section A.

By submitting this application to MDE, I certify that I have read, understand, and accept the terms and conditions of this subscriber agreement. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Subscriber Signature

Date

Check	Checklist - Permitting Authority Use Only	Name	Date
	Form Received by		
	Verified Agreement Contents		
	MDE Approves e-Permits Authorization		
	Notification to User		
	Inactivated?		

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Print this form, save a copy for your records, and mail to:

Maryland Department of the Environment
Water Management Administration
Compliance Program
1800 Washington Boulevard, Suite 420
Baltimore, Maryland 21230
Attn: e-Permits Subscriber Agreement